



**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

2005-00918

Issuance Date:

August 7, 2007

Stream:

-UNTribe Conotton Creek

Closing Date:

September 5, 2007

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the United States Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Oxford Mining Company
544 Chestnut Street
PO Box 427
Coshocton, Ohio 43812

LOCATION: The project area is located in jurisdictional waters of the United States in the Conotton Creek watershed. The site is located south of Johnstown Road in Fairfield Township, Tuscarawas County, Ohio.

DESCRIPTION OF PROPOSED WORK: The applicant proposes to place fill material into a total of 2,101 linear feet of intermittent stream, 200 linear feet of ephemeral stream, 0.52 acre of jurisdictional wetlands and 3.58 acres of open water pond in association with coal mining activities. An additional 339 linear feet of intermittent stream and 15 linear feet of ephemeral stream would be impacted secondarily in association with sediment transport. According to the applicant, the purpose of the project is to recover available coal reserves in the project area, which encompasses a total of approximately 311 surface acres. The proposed mining plan involves the removal of approximately 807,000 tons of coal from the #6 coal seams through contour and auger mining over a period of five years. The applicant has identified this site as the Chumney area.

It has been determined waters of the United States within the limits of the 311 acre site include 4,462 linear feet of intermittent stream, 623 linear feet of ephemeral stream, 0.80 acre of wetlands, and 3.58 acres of open water pond. These waters are hydrologically connected to unnamed tributaries of Conotton Creek. Conotton Creek drains to the Tuscarawas River, a Section 10 stream. Remaining waters within the boundary of the 311 acre site include 426 linear feet of intermittent stream, 1,921 linear feet of ephemeral stream, 0.11 acre of wetlands and 1.83 acre of open water ponds. It was determined these waters do not exhibit a hydrologic connection to a surface tributary system and are therefore isolated waters of the State of Ohio. Authorization for impacts to these waters would not be required under Section 404 of the Clean Water Act.

Details concerning individual streams and wetlands proposed to be impacted, their quality and purpose of proposed impacts are below (Tables 1 and 2).

Table 1. Proposed impacts to jurisdictional streams on-site in association with the Chumney surface coal mine site, Tuscarawas County, Ohio

Stream ID	Flow*	QHEI**	On-site stream length (linear feet)	Impact length (linear feet)	Coal Removal Impact (linear feet)	Sediment Pond Construction Impact (linear feet)	Sediment transport impact (linear feet)	Road construction impact (linear feet)
B	I	41.5	1854	1437	966		339	132
C	I	47	1859	1003	848	155		
D	I	50	749	0				
6	E	N/A	62	62	62			
11	E	N/A	225	110			15	95
12	E	N/A	336	43	43			
Total			5085	2655	1919	155	354	227

Stream ID: as described in the final investigation of waters of the U.S. prepared by Buckeye Mineral Services, Inc.

***, Flow:** Designation of stream flow: I, Intermittent; E, Ephemeral

**** , QHEI:** Qualitative Habitat Evaluation Index scores as determined by the Ohio EPA's protocol;

Table 2. Proposed impacts to jurisdictional wetlands on-site in association with the Chumney surface coal mine site, Tuscarawas County, Ohio.

Wetland ID	ORAM score*	Total Acreage	Impact Acreage
WD-3	22	0.004	0.004
WD-4	21	0.31	0.31
WD-5	18	0.08	0
WD-6	14	0.002	0.002
WD-7	28.5	0.25	0.046
WD-9	17	0.04	0.04
WD-10	28.5	0.12	0.12
Total		0.802	0.522

Wetland ID: as described in the final investigation of waters of the U.S. prepared by Buckeye Mineral Services, Inc.

***, ORAM: Ohio Rapid Assessment Method** scores as determined by the Ohio EPA's protocol;

MITIGATION: To compensate for proposed impacts to jurisdictional waters of the United States, the applicant has proposed avoidance, minimization and compensation measures. A conceptual mitigation plan has been submitted for review.

The applicant proposes to avoid impacts to 0.59 acre of jurisdictional wetland and 2,420 linear feet of stream channel during project implementation. Impacts to waters of the United States on-site and downstream of the project area are proposed to be minimized through implementation of best management practices. Appropriate construction and use of sediment ponds, drainage control structures, diversion ditches, and other best management construction practices are proposed to minimize impacts to waters of the United States.

To compensate for impacts to 2,665 linear feet of jurisdictional stream channel, the applicant proposes to re-construct approximately 3,902 linear feet of intermittent and ephemeral stream channel on-site. The stream channels would be restored as closely as possible to their pre-mining location and ecological condition. The stream reconstruction proposal would result in a net gain of approximately 1,247 linear of stream channel. A 50-foot vegetated riparian buffer would be established along each bank. Vegetation would include native tree and shrub species, including tree species with suitable Indiana bat habitat. This additional length of stream channel would be constructed to compensate for stream channel that previously flowed through the existing strip mine water impoundments prior to Surface Mining Control and Reclamation Act (SMCRA) regulations.

To compensate for impacts to 0.522 acre of wetland, the applicant proposes to create 0.86 acre of wetlands (WM-1) within Pond 001 and adjacent to the reconstructed section of Stream Channel C. After initial grading of the wetland mitigation area, stockpiled hydric topsoil would be

distributed within the footprint of the wetland and final grading would be completed. Pond 001 would be modified as a permanent impoundment with a maximum water depth of 1-foot. It is anticipated the wetland would re-vegetate naturally due to the seed source within the hydric soils. Supplemental seeding and cattail herbicide is proposed for use to minimize the potential for invasive species encroachment. Riparian vegetation would be planted in areas adjacent to the wetland mitigation area and would include trees species with suitable Indiana bat habitat. Wetland hydrology would be established via a seasonal water connection between the wetland area and seasonal flood events from Stream C. Hydrologic inputs would also include overland flow and precipitation events.

The applicant proposes to monitor channel stability, hydrology, chemical parameters (pH, total suspended solids, specific conductivity, total alkalinity, total acidity, total iron, total manganese, sulfates and hardness) and riparian vegetation in association with stream mitigation. To date, the applicant has not provided information concerning target conditions for each of the monitored parameters that must be obtained to consider the streams and wetlands successful. A final mitigation plan providing details concerning the proposed work plan, performance standards, site protection, contingency plan, monitoring, and long-term management will be requested by this office.

ATTACHMENTS: Plans of the proposed work are attached to this notice.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain that certification from the Ohio Environmental Protection Agency.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the Ohio Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

THREATENED & ENDANGERED SPECIES: This project is located within the known or historic range of the Indiana bat (endangered); clubshell mussel (endangered); and bald eagle (threatened).

Based on project location and habitat availability, it has been determined this proposal would have no effect on the clubshell mussel or the bald eagle.

The project area does contain suitable habitat for the Indiana bat. The applicant would be required to address the requirements outlined in the Ohio Department of Natural Resources' *Permitting Policy Procedure Directive 2004-01: Measures for Protecting the Endangered Indiana Bat*. The project area contains 180 acres of forest. A small portion of the forested area is characterized by good quality Indiana bat habitat trees. It is expected that provided the applicant does not cut these trees during the designated summer roosting months, this project is not likely to adversely affect the Indiana bat.

This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have whether any listed or proposed to be listed endangered or threatened species may be present in the area that would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST: Any person who has an interest, which may be adversely affected by the issuance of a permit, may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. Persons wishing to submit comments, objections or requests for public hearings concerning the Corps' permit should write:

U.S. Army Corps of Engineers
ATTN: CELRH-OR-F Public Notice No. 2005-00918
502 8th Street
Huntington, West Virginia 25701-2070

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Ms. Desiree L. Hann of the North Regulatory Section at 304-399-5210.



Ginger Mullins
Chief, Regulatory Branch

(O)



LOCATION MAP

OXFORD MINING
CHUMNEY MIN
FAIRFIELD TOWNSHIP, TUSC

Oxford Mining Company
2005-00918 - UNTriB Conotton Creek
Tuscarawas County, Ohio
Location Map
Sheet 2 of 8



WETLAND MITIGATION PLAN

Approximately 0.57 acres of wetland habitat will be impacted by the proposed mining operation. This wetland acreage will be replaced at a mitigation ratio of 1.5:1 for a total of 0.86 acres of restored wetlands. The Mitigation Wetland Area Plan involves using the proposed "to be constructed" embankment Pond 001. Following mining and reclamation, this pond will be modified as the Attachment 20 indicates.

MODIFICATIONS WILL INCLUDE THE FOLLOWING:

*The bottom elevation of Pond 001 will be established at 1000 feet MSL.
*POND 001 will remain for a minimum of two years after mining and reclamation activities have been completed to ensure primary vegetative cover has been established. Wetland construction will be coordinated with the modification of Pond 001. The principle spillway will be removed and a rock lined weir will be constructed. The open spillway will be lowered no more than 1' above the final stream/wetland elevation.

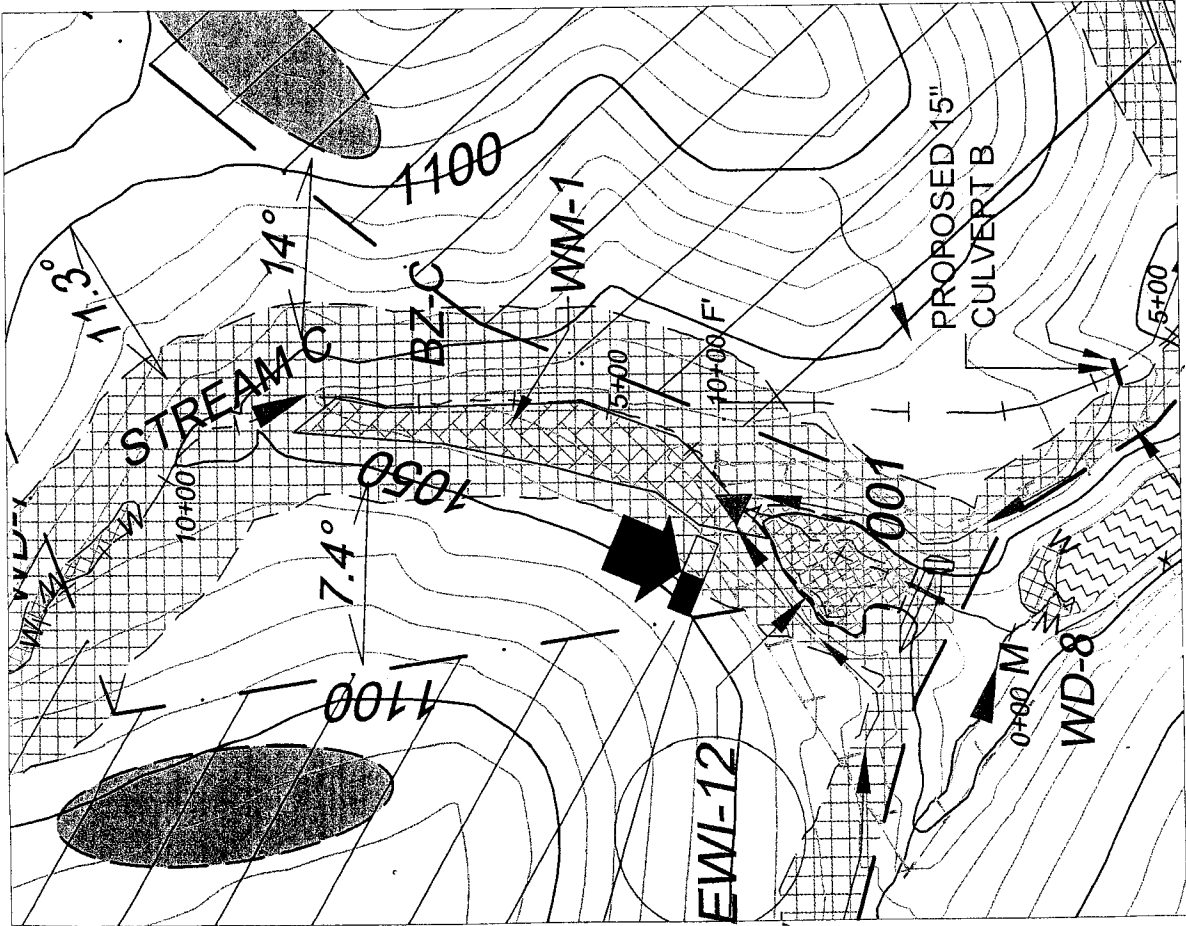
Approximately 848 feet of intermittent Stream C channel will be impacted by the proposed mining operation. This stream channel will be replaced as is the proceeding wetland areas. The reconstructed stream channel will provide for the hydrologic connection to the mitigation wetland area, as the headwater spring of this stream will not be removed by the proposed mining operation.

Prior to mining, the hydric soils present in the portion of WD-7 to be mined out will be removed and stockpiled separately from the other removed topsoil. The removed hydric soils will be used to re-soil the reconstructed wetlands following mining and reclamation (the soils will be sprayed with cattail herbicide to reduce coverage of invasive species).

The Mitigation Wetland Area (WM-1) will be created, following reclamation, within the ravine located upstream from modified Pond 001 and the Pond 001 area itself. The WM-1 area, which will comprise a total acreage of at least 0.86 acres, will be created adjacent to the reconstructed portions of Stream C. (See Wetland Mitigation plan view and Stream C profile). After the mitigation area is graded all of the removed hydric topsoil will be distributed over the designated wetland mitigation area, and final grading completed. Pond 001 will be modified as a permanent impoundment, as indicated above with a maximum water level of 1'. Riparian vegetation will be replanted in those areas adjacent to WM-1, after final grading has been finished. These areas will be periodically flooded in a similar manner to which existing wetland areas are inundated. Existing floodplains broaden and, in many cases, are nearly level with the valley bottom. The WM area will have similar characteristics. A seasonal surface water connection will be established between the WM area, Pond 001, and the seasonal flooding events from Stream C. The reconstructed wetland will contain a floodplain, which will approximate original contours and provide hydrologic conditions conducive to the development and maintenance of at least 0.86 acres of wetland. The floodplain will retain hydrologic conditions necessary for the development and maintenance of desired wetland habitats.

REVEGETATION:

The removed hydric soils generally contain a satisfactory seed bank to revegetate the reconstructed wetlands. Supplemental seeding with wetland species and cattail herbicide will minimize the potential for invasive species encroachment and dominance. Riparian vegetation will be replanted/re-established in the areas adjacent to the wetland mitigation areas and will include some (not more than 25%) tree species that are suitable Indiana Bat tree species.



WETLAND MITIGATION PLAN					
PREPARED BY BUCKEYE MINERAL SERVICES, INC. BOX 546 NEW PHILADELPHIA, OHIO					
for OXFORD MINING COMPANY, INC.					
SECTION: 13,18 LOT: 1,2,6 (T-9N)(R-1W) TWP: FAIRFIELD					
COUNTY: TUSCARAWAS STATE: OHIO					
JOB NAME	APPLICATION	SCALE	CONTOUR INTERVAL	DATE PREPARED	DATE REVISED
WM-1	No.	1" = 200'	10'	10/6/05	
HUMNEY					

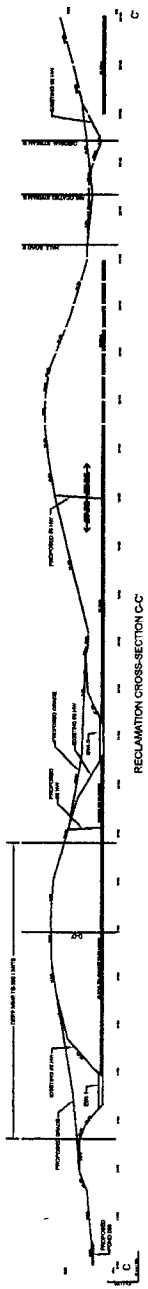
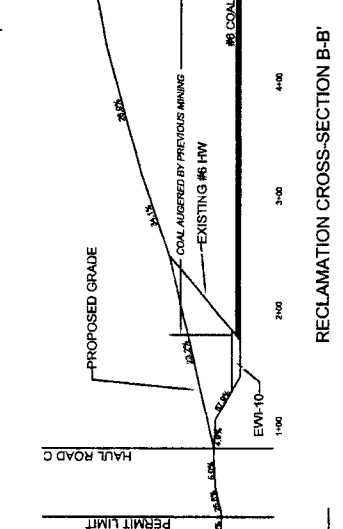
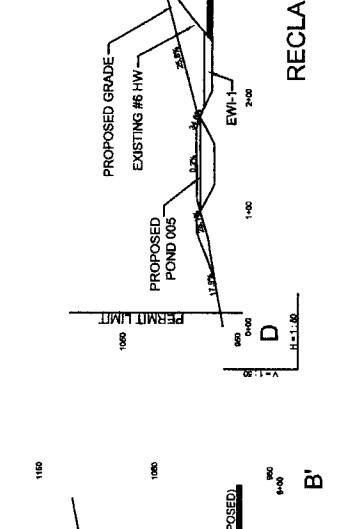
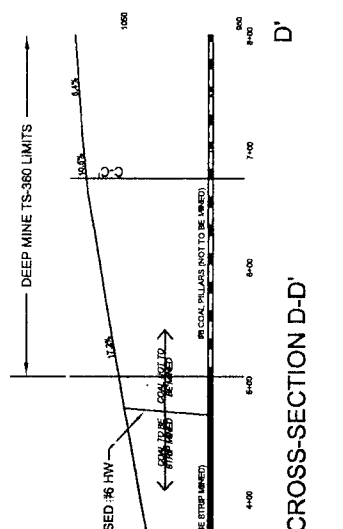
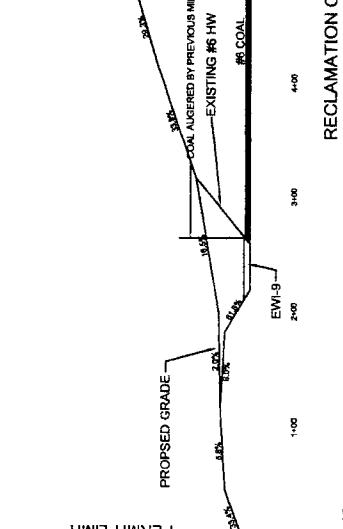
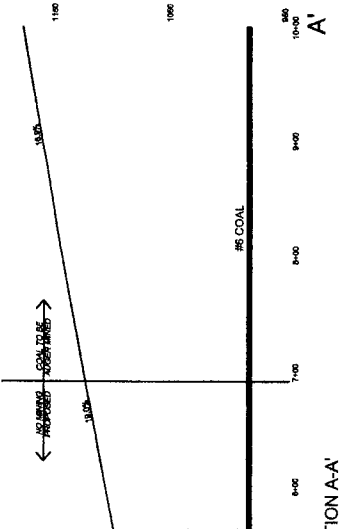
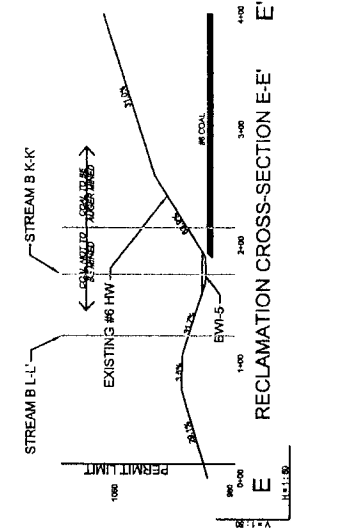


BUCKEYE MINERAL SERVICES, INC.
834 COCKSON AVE.
NEW PHILADELPHIA, OHIO 44663
(330) 938-2100



DATE: 8/6/05
REV: 1
SCALE: AS SHOWN

OXFORD MINING COMPANY
CHUMNEY
ENGINEERING DESIGN SERVICES FOR:



Oxford Mining Company
2005-00918 - UNtrib Conotton Creek
Tuscarawas County, Ohio
Cross-section view - Reclamation
Sheet 6 of 8

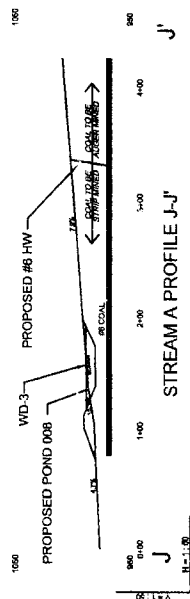


BUCKEYE MINERAL SERVICES, INC.
P.O. BOX 848
634 COCKSON AVE.
NEW PHILADELPHIA, OHIO 44663
(990)399.2100

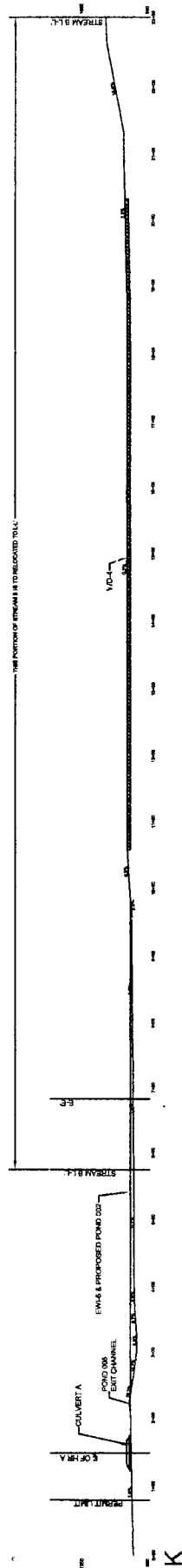


DATE: 9/9/05
KEY:
SCALE: AS SHOWN

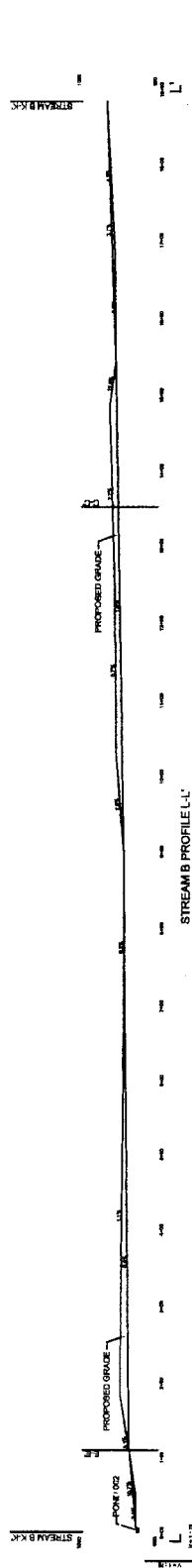
OXFORD MINING COMPANY
CHUMNEY
ENGINEERING DESIGN SHEETS FOR



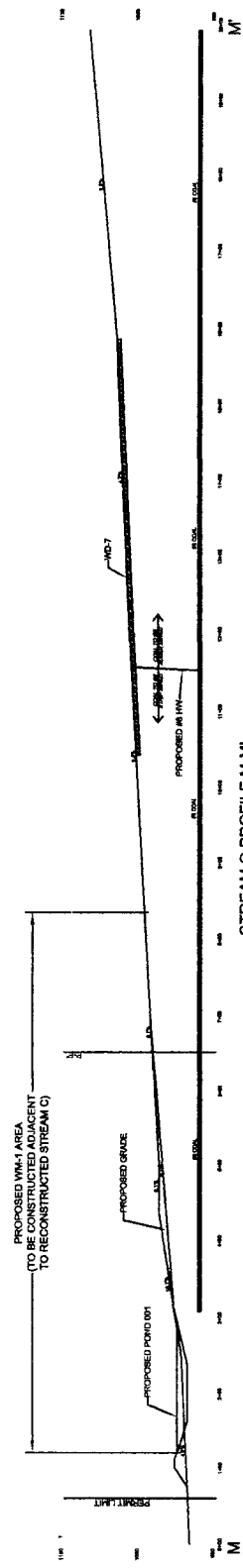
STREAM A PROFILE J-J'



STREAM B PROFILE K-K'

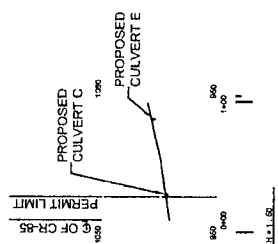
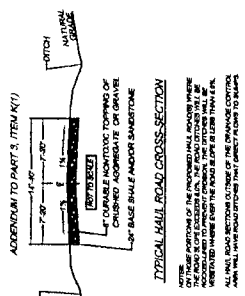
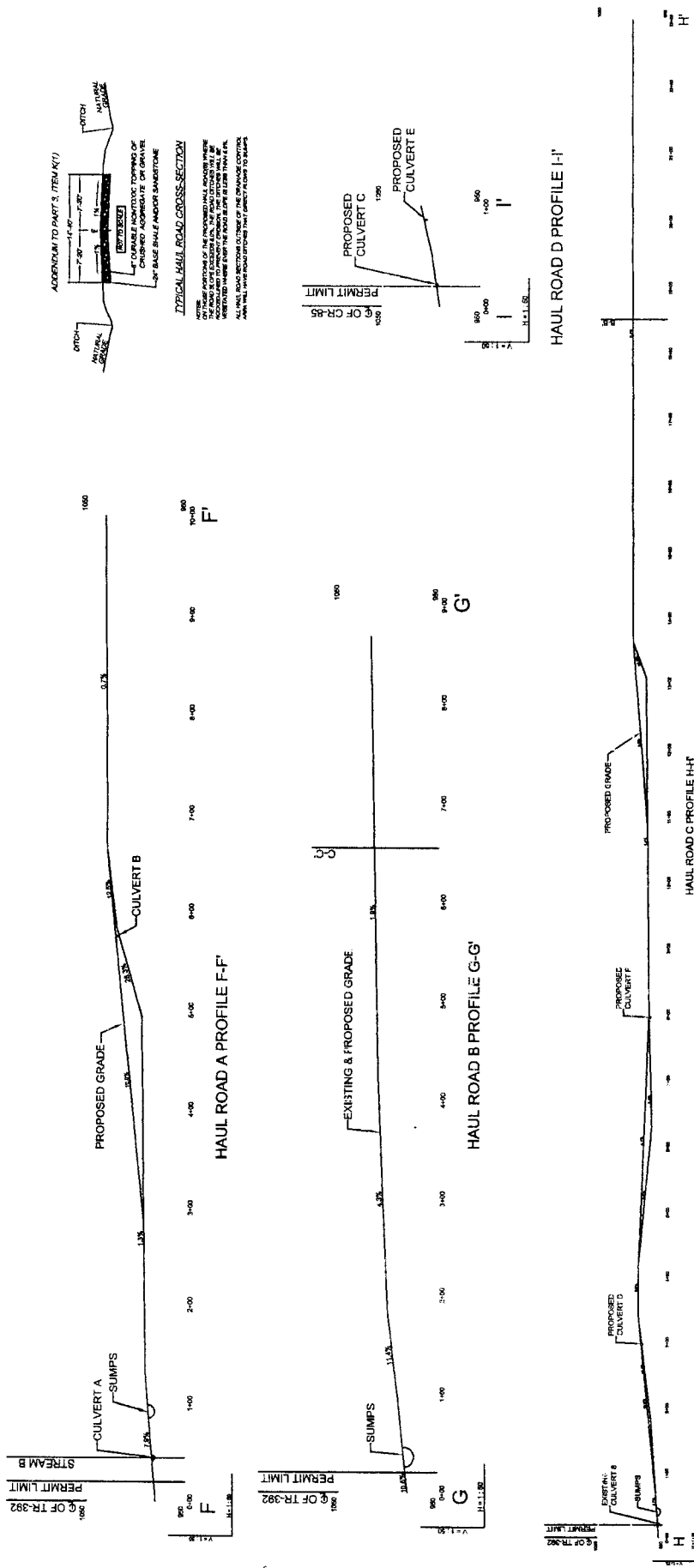


STREAM B PROFILE L-L'



STREAM C PROFILE M-M'

Oxford Mining Company
2005-00918 - UN/Trib Conotton Creek
Tuscarawas County, Ohio
Cross-Section view - Reclamation
Sheet 7 of 8



ADDENDUM TO PART 3, EGP 8-9-97
PROPOSED ELEVATION

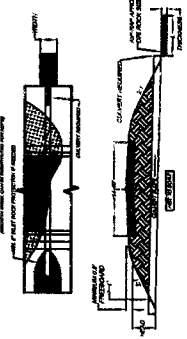
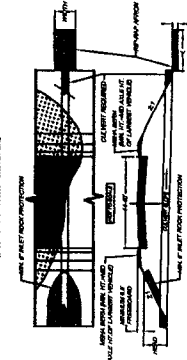
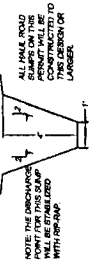
STATION	ELEVATION
1+00	1000.00
2+00	950.00
3+00	900.00
4+00	850.00
5+00	800.00
6+00	750.00
7+00	700.00
8+00	650.00
9+00	600.00
10+00	550.00
11+00	500.00
12+00	450.00
13+00	400.00
14+00	350.00
15+00	300.00
16+00	250.00
17+00	200.00
18+00	150.00
19+00	100.00
20+00	50.00
21+00	0.00

ADDENDUM TO PART 3, EGP 8-9-97
EXISTING PROPOSED HAUL ROAD

STATION	EXISTING ELEVATION	PROPOSED ELEVATION
1+00	1000.00	1000.00
2+00	950.00	950.00
3+00	900.00	900.00
4+00	850.00	850.00
5+00	800.00	800.00
6+00	750.00	750.00
7+00	700.00	700.00
8+00	650.00	650.00
9+00	600.00	600.00
10+00	550.00	550.00
11+00	500.00	500.00
12+00	450.00	450.00
13+00	400.00	400.00
14+00	350.00	350.00
15+00	300.00	300.00
16+00	250.00	250.00
17+00	200.00	200.00
18+00	150.00	150.00
19+00	100.00	100.00
20+00	50.00	50.00
21+00	0.00	0.00

ADDENDUM TO PART 3, EGP 8-9-97
EXISTING PROPOSED HAUL ROAD

STATION	EXISTING ELEVATION	PROPOSED ELEVATION
1+00	1000.00	1000.00
2+00	950.00	950.00
3+00	900.00	900.00
4+00	850.00	850.00
5+00	800.00	800.00
6+00	750.00	750.00
7+00	700.00	700.00
8+00	650.00	650.00
9+00	600.00	600.00
10+00	550.00	550.00
11+00	500.00	500.00
12+00	450.00	450.00
13+00	400.00	400.00
14+00	350.00	350.00
15+00	300.00	300.00
16+00	250.00	250.00
17+00	200.00	200.00
18+00	150.00	150.00
19+00	100.00	100.00
20+00	50.00	50.00
21+00	0.00	0.00



ALL SUMPS WILL BE PERIODICALLY INSPECTED, CLEANED AND MAINTAINED.

Oxford Mining Company
2005-00918 - UNtrib Conotton Creek
Tuscarawas County, Ohio
Cross-Section view - Road crossings
Sheet 8 of 8